

REPORT OF MEETING
OF
LEGISLATION COMMITTEE
COOPERATIVE FEDERATION OF VICTORIA

held at

369 Lonsdale Street, Melbourne on Friday, 15th February 1980, commencing 12.30 p.m.

1. PRESENT: Mr. M. Rundle Chairman
 Mr. E. J. Long
 Mr. W. W. Rawlinson Executive Officer

2. BUSINESS:

The meeting considered a submission for amendments to the Cooperation Act 1958, dated January 1980, from the Victorian Credit Cooperative Association to the Registrar of Cooperatives. The submission listed 47 desired amendments on which recommendations to Council were agreed.

3. CONSIDERATION:

The detailed recommendations to Council are appended to these minutes as Appendix "A".

4. CLOSURE:

There being no further business the meeting was closed at 3 p.m.

COMMENTS BY

COOPERATIVE FEDERATION OF VICTORIA

ON PROPOSALS OF

VICTORIAN CREDIT COOPERATIVE ASSOCIATION LTD.

FOR

AMENDMENTS TO

THE COOPERATION ACT 1958

369 Lonsdale Street,
MELBOURNE, 3000.

Telephone: 602 3326.

W. W. Rawlinson,
Executive Officer.

February 1980.

(1) SECTION 3

- (a) Propose to delete the term "officer" and define "director", "employee" and "manager".

The Cooperative Federation of Victoria recommend no change and particularly doubt the value of defining "employee". Provided the rules are clear in accordance with Section 67(1) y outlining appointment powers and duties there should be no need for change.

- (b) Propose definition of "special resolution" in this section.

The Cooperative Federation of Victoria support this proposal.

(2) DIVISION 6
SECTIONS 14-18

The Cooperative Federation of Victoria accepts that the experience of Credit Societies should be the soundest base from which to judge proposed amendments to Division 6 but reserves the right to reconsider approval after the specific wording of the amendments drafted for legislation are completed.

The Federation expresses some reservation on the possibilities that the relevant role of differing types of Cooperatives, their objects and powers could be prejudiced by too far reaching amendments along this line.

(3) SECTION 22

- (a) Propose amendment to allow Rules of an Association to admit any Society registered under the Act as a member.

The Federation oppose this proposal on the grounds that Associations are intended to be secondary level Cooperations and to be effective they should be of the same kind.

The Federation has made a submission to the Registrar for enabling legislation to be passed to replace the term "Union" with the term "Federation" and to allow membership of such a body to comprise Cooperatives incorporated under any appropriate Victorian legislation and certified by the Registrar as being Cooperative in character.

- (b) Propose amendment to permit a Credit Association to take into membership Credit Societies registered in other States where there is no operating Credit Association.

The Federation does not oppose this proposal and considers it should be extended to all Associations and Cooperatives from other States where no relevant Association exists.

- (4) SECTION 23 Proposes amendments to permit an Association to provide guarantees to any institution providing specialist services to component Societies, e.g., credit, loans, advances or funds, and, expand the meaning of the word "loan" to remove the current legal restrictions which are claimed to discourage the discounting of securities.
- The Federation would not oppose this proposal if experience indicates the Act as currently worded restricts a Society's Rules from incorporating these requirements. The Federation would ask that any such amendment be restricted to Credit Societies and Associations and that such Associations restrict their activities to component Credit Societies.*
- (5) SECTION 26 Proposes the inclusion of the word "society" within the definition of Foreign Association.
- The Federation supports this proposal.*
- (6) SECTION 30 Proposes reduction of minimum age of membership from 18 years to school leaving age.
- The Federation support the proposal for a lowering of the minimum age limit from 18 years without voting rights. However, the Federation is of the opinion that an absolute minimum age of 15 (the school leaving age) be written into the legislation with individual Societies having the right to provide in their own Rules for the minimum age limit such Societies would wish to stipulate which applicants would be admitted into membership.*
- (7) SECTION 31 Propose minimum number required for formation of Credit Society be 50.
- The Federation supports this proposal.*
- (8) SECTION 35 Propose this section which establishes that a certificate of incorporation is conclusive evidence that registration formalities have been complied with be transferred to Section 31 concerned with formation procedures.
- The Federation support this proposal.*
- (9) SECTION 37(3) Propose to exclude Associations of Credit Societies from requirement that shares shall all be of one class ranking equally.
- The Federation supports this proposal and considers the principle should be extended to all secondary level Cooperatives.*
- (10) SECTION 38 (a) Propose changing the descriptive term "surplus" to "excess of income over expenditure".

The Federation can see no valid reason for this proposal which seeks to change a one word recognised Cooperative term with a clumsy five word term.

- (b) Propose Credit Societies be required to provide for bad and doubtful debts in accordance with a formula.

Whilst the Federation understands the reasons for this proposal it considers it to be outside the legislative requirements. Some such requirement could be laid down in standards to be observed by participants in the Credit Societies General Reserve Fund.

- (11) SECTION 43(2) Propose removal of Credit Societies from provisions requiring consent of Registrar to repayment by a Society of a member's share capital when monies on loan are held from non-members.

The Federation support this proposal.

- (12) SECTION 44(A) Propose reduction from present 10 year period for disposal of shares of untraceable members.

The Federation supports this proposal.

- (13) SECTION 46 Propose deletion of the figure "\$400" and replacement by "as prescribed by regulations" in respect of payments to deceased members' estates where such members holding in the Society does not exceed this figure.

The Federation supports this proposal.

- (14) Section 48 Proposes defining "land" to give it the broad meaning it has under the Transfer of Land Act.

Provided such amendment will not water down the definition to reduce the existing powers of the section the Federation do not oppose the proposal in principle. However, the Federation reserves the right to further comment after consideration of the actual wording in the draft amendment.

- (15) SECTION 48(A) Proposes provision of control by regulation of the value of property acquired by Credit Societies.

The Federation supports the proposal.

- (16) SECTION 50 Proposes addition of the words "and of such amount" in respect of a Society borrowing funds.

The Federation supports the proposal.

- (17) SECTION 51(3) Proposes Credit Societies be exempted from requirements of one month's notice for receiving money on deposit.

The Federation supports the proposal.

- (18) SECTION 52(1) Proposes Credit Societies be exempted from limitation

by Rules or Regulations to amount of money on loan or deposit.

The Federation supports the proposal.

(19) SECTION 54

Proposes clarification of these investment provisions to exclude the restrictions on loans to residents within the district or of a class as required by Section 16.

The Federation supports the proposal in respect of Credit Societies.

(20) SECTION 56

Proposes that provisions for authority or variations of contracts exclude the words "or implied".

The Federation supports this proposal.

(21) SECTION 59(2)

Proposes exemption of Credit Societies from maintaining registers in respect of "deposits received", "guaranteed", "securities taken".

(3) Proposes registers be kept in a suitable and legible form by any process whatsoever and contain at least such particulars as are prescribed by regulations.

(4) Proposes deletion of this sub-section relating to non-entry of notice of trust in registers.

The Federation supports these proposals.

(22) SECTION 60

Proposes amendments to documents available for inspection.

The Federation cannot see why creditors should be allowed access to a Society's records in the Society's office. It recommends deletion of the words "or creditors" in the section.

The Federation would not oppose retention of the provision for the register of members to be available for inspection by any member.

The Federation supports VCCA proposal to delete para(e) of this section relating to inspection of register of loans, securities and deposits.

(23) SECTION 61(3)

Proposes to delete the requirement for the Registrar to be supplied with a list of members on request being made in writing.

The Federation accepts such request might inconvenience the Society so requested, but considers the provision reasonable and cannot support its removal.

(24) SECTION 65(1)

Proposes deletion of definition of "special resolution".

The Federation would support the proposal if the term is defined in Section 3 as outlined at 3(1)(b) above.

- (25) SECTION 67(1)(j) Proposes exemption of Credit Societies, Associations and Unions of Credit Societies from statutory requirement for Rules to stipulate maximum dividend payable on share capital.

The Federation oppose this proposal. A basic Cooperative principle is for reward on Cooperative capital which is service capital rather than investment capital - to be limited. This is one major distinction between Cooperatives and non-Cooperatives.

This is not to mean that Cooperative capital should not be paid a fair reward for its use.

It is considered this limitation of dividend could very often be a protection for Cooperatives.

It is recommended that rather than a fixed maximum rate being the subject of legislation the practice of indexing the dividend rate to provide for inflation effects should be adopted. The Cooperative Company Law in Western Australia requires

"The rate of dividend on the shares of the company shall not in respect of any year exceed an amount which is five dollars per centum in excess of the Commonwealth Bank rate of interest for the time being on fixed deposits for two years (Section 173(a))"

- (26) SECTION 69 (a) Proposes Act enables Rules to provide for election of Directors by postal ballot.

The Federation considers the Model Rules currently allow for this requirement to be practised.

- (b) Proposes amendments to allow delegation of Board authority to Committees and or Management.

The Federation considers Section 67(1) y makes provision for such procedures. The Federation expresses great concern that the responsibilities of directors be in no way diminished or abrogated to salaried employees.

The Federation would welcome more specific guidelines on powers and duties of the board of directors.

- (27) SECTION 70 Proposes amendment to allow Boards of Directors and members to convene Special General Meetings in accordance with Rules.

The Federation supports this proposal.

- (28) SECTION 71(1) Proposes addition of words "and voting" after the words "in person thereat" relating to voting by members.

The Federation supports the proposal.

SECTION 71(3) Proposes exemption of Associations and Unions from the principle of one member one vote irrespective of shareholding.

The Federation supports the principle of proportionate representation for all secondary level Cooperatives as does the World body of Cooperation. However, the smaller members of the Association have to be protected and the idea of the proportion of representation being limited to 10 or 11 is accepted.

SECTION 71(4) Proposes exemption of Credit Societies and Associations from voting restrictions on members with unpaid loans.

The Federation supports the proposal.

(29) SECTION 73(1) Proposes amendment to permit borrowings from the Society by Directors or officers to be authorised by the Board rather than by special resolution of the Society in general meeting.

The Federation supports the proposal in principle but would wish to see the actual wording of the draft amendment before giving unqualified support.

SECTION 73(3) Proposes amendment to require adequate security in respect of officers having charge of Society's money to meet today's conditions.

The Federation supports the proposal.

(30) SECTION 75 Proposes amendments in respect of appointment, removal of auditors and on matters which they should report to members.

The Federation supports the reasoning of VCCA that "existing provisions in relation to auditors and their required declarations are insufficient in providing appropriate information to members thereby safeguarding their interests".

This weakness in the Cooperative system was recognised in Germany in 1889 where the Cooperative Law proclaimed in that year (and still applicable) stipulated that every registered Cooperative must belong to a Federation equipped with the right to audit. The implementation of audit is conducted by the Federation's auditors thus ensuring a uniformity of standards and an ability for speedy corrective action where necessary when weaknesses appear.

The German Cooperative Movement is the most advanced and highly integrated system in any country in the World operating in a private enterprise market orientated economic system.

Whilst no similar system exists in Australia today, the Federation strongly recommends an urgent study of the proposal to develop a uniform statutory Cooperative Audit Scheme statutorily and professionally operated by Associations or the Federation for all relevant registered Cooperatives.

- (31) SECTION 77(4) Proposed amendment to provide for disputes on contracts or mortgages to be referred to arbitration.

The Federation supports the proposal.

- (32) PART IIIA
SECTIONS 77A-77L Proposes complete exemption of Credit Societies from this part.

In view of developments at the time of introduction of this amending legislation the Federation supports the proposal.

- (33) SECTION 78(1) Proposes amendments to allow the operation of a Society being suspended after the occurrence of certain events.

As a preliminary stage to winding up or as an alternative then the Federation can see merit in the proposal and would support it.

- SECTION 78(3) Proposes amendment re-arranging the current order of the words.

The reasoning behind this proposal is not clear to the Federation.

- SECTION 78(4) Proposes deletion.

The Federation would oppose the deletion.

- (34) SECTION 83 Propose deletion of provisions for Registrar of Cooperative Societies to be also Registrar of Housing Cooperatives.

The Federation sees merit in these Cooperative responsibilities being handled at one desk.

- (35) SECTION 88 Proposes amendments to provide for Registrar to call special general meetings on application of one third or 100 members, whichever is less.

The Federation supports the proposal.

- (36) SECTION 89 Proposes amendment to allow Registrar to enquire into all or any part of the affairs of a Society and to invoke powers conferred in Section 78 of the Act.

The Federation supports the proposal.

- (37) SECTION 91 Proposes adding to documents that may be inspected at the Registry the Annual Returns submitted to the Register.

The Federation supports the proposal.

- (38) SECTION 93 VCCA supports the Federation's proposal for amendment of this section.

- (39) PART VII
DIVISION 2
SECTIONS 103-115 Proposes deletion of specified amount of penalty and replacement with "an amount prescribed by regulation".

The Federation supports the proposal.

- (40) SECTION 116 Proposes deletion of \$40 and substitute therefor "amount prescribed by regulation".

The Federation supports this proposal.

- (41) GENERAL Proposes provision of an index with the Act.

The Federation supports this proposal.